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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/522,557	08/18/2006	Marco Ruzzier	05788.0342.00000	8847
22852	7590	06/10/2010		
FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER LLP 901 NEW YORK AVENUE, NW WASHINGTON, DC 20001-4413			EXAMINER BELYAEV, YANA	
			ART UNIT	PAPER NUMBER
			1791	
			MAIL DATE	DELIVERY MODE
			06/10/2010 PAPER	

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/522,557

**Applicant(s)**

RUZZIER ET AL.

**Examiner**

YANA BELYAEV

**Art Unit**

1791

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 12 February 2010.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 36-40 and 42 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 36-40 and 42 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/GS/US)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Response to Arguments***

1. Applicant's arguments filed 2 February 2010, with respect to claims 36, 39, 40, and 42 have been fully considered and are persuasive. The previous rejection has been withdrawn.

### ***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

3. Claims 36-37 and 42 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent 5,233,261 (Wajid hereinafter) in view of US Patent 4,682,994 (Mansfield hereinafter).

**Regarding claims 36-37 and 42,** Wajid discloses measuring the weight of a preform (column 1, lines 27-30) during a chemical deposition process for the formation of a preform (column 1, lines 43-45), comprising the steps of: detecting the frequency of oscillation and calculating the weight of the preform based on the detected frequency of oscillation (column 1,

lines 27-33). Wajid further teaches inducing an oscillation of a preform (column 2, lines 6-8), specifically inducing vibrations.

It is the Examiner's position that the elongated element is intrinsically elastically constrained, since the preform is induced and allowed to vibrate.

Wajid also disclose performing the chemical deposition process in a vacuum environment (column 1, lines 40-43), which reads on the applications limitation of supplying pressurized air inside a seat housing and discharging the air after a predetermined time.

Wajid does not disclose that the perform is an optical perform for the formation of optical fibers.

However, Mansfield discloses that the perform is an optical perform for the formation of an optical element, wherein the optical perform is forming using vapor deposition process (abstract).

It would have been obvious for one of ordinary skill in the art at the time of the invention to have applied the teachings of Wajid to a preform for optical fibers during a chemical deposition process, since it would have been known to one of ordinary skill in the art how to determine the weight of a preform during a chemical deposition process from the detected frequency of induced oscillation (Wajid) so it would have been obvious to one of ordinary skill in the art at the time of the invention to have applied this process to a preform for optical fibers, since it would have been known to one of ordinary skill in the art to form preforms for optical fibers during a chemical deposition process (Mansfield).

4. Claims 38-39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wajid in view of Mansfield as applied to claims 36-37 and 42 above, and further in view of US Patent 5,684,276 (Altemir hereinafter).

**Regarding claims 38-39**, Wajid in view of Ronn do not disclose supplying a current for a predetermined time or generating a signal and processing said signal to work out the frequency of oscillation. However, Altemir discloses a method for measuring the mass minute quantities of material deposited at a selected location, such as during vapor deposition, by analyzing the frequency of oscillation of the substrate (abstract), teaches supplying an alternating current (column 3, lines 20-24) into a coupling element comprising at least one permanent magnet (column 3, lines 30-35).

Altemir further discloses generating a signal and processing the signal to work out the frequency of oscillation of the material (column 3, lines 20-30).

5. Claim 40 is rejected under 35 U.S.C. 103(a) as being unpatentable over Wajid in view of Ronn and further in view of Altemir as applied to claims 36-39 and 42 above, and further in view of US Patent 6,115,112 (Hertzman hereinafter).

**Regarding claim 40**, Wajid nor Ronn nor Altemir disclose processing a collected luminous signal to generate an electric signal representing the distance of said target.

However, Hertzman discloses sending a luminous signal toward a target, collecting the luminous signal, and processing the collected luminous signal to generate an electric signal representing the distance of the target (abstract), wherein it is the Examiner's position that the

signal is intrinsically electric since processing the collected luminous signal occurs in a calculating unit (element 9) in two circuits (column 7, lines 64-66).

It would have been obvious for one of ordinary skill in the art at the time of the invention to have generated a signal and processed that signal to generate a signal representing the distance of the target, since it would have been well known to one of ordinary skill in the art at the time of the invention the method of measuring the distance of a target (Hertzman, abstract).

### *Conclusion*

Any inquiry concerning this communication or earlier communications from the examiner should be directed to YANA BELYAEV whose telephone number is (571)270-7662. The examiner can normally be reached on M-Th 8:30am - 6pm; F 8:30 am- 5 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Steven Griffin can be reached on (571) 272-1189. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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/Y. B./  
Examiner, Art Unit 1791

/Jason L Lazorcik/  
Primary Examiner, Art Unit 1791